

JD:JEA
F. #2018R00214

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

KERRY HUGHLEY,

Defendant.

TO BE FILED UNDER SEAL

COMPLAINT AND AFFIDAVIT IN
SUPPORT OF AN
ARREST WARRANT

(18 U.S.C. §§ 641, 2)

No. 19-M-114

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EASTERN DISTRICT OF NEW YORK, SS:

ERIC MARYEA, being duly sworn, deposes and states that he is a Special Agent with the Department of Defense, Defense Criminal Investigative Service ("DCIS"), duly appointed according to law and acting as such.

Upon information and belief, on or about April 29, 2018, within the Eastern District of New York and elsewhere, the defendant KERRY HUGHLEY, together with others, did willfully and knowingly and without authority sell, convey, and dispose of property of the United States, to wit: the theft and the subsequent sale of military-owned night vision equipment, worth over one thousand dollars (\$1000.00).

(Title 18, United States Code, Sections 641 and 2)

The source of your deponent's information and the grounds for his/her belief are as follows:¹

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

1. I have been employed as a Special Agent with the DCIS for approximately eight (8) years, and am currently assigned to the New York Resident Agency in Melville, New York. Among other things, I am responsible for conducting and assisting in investigations into the theft and conversion of stolen government property and violations of U.S. export control laws. I have gained expertise in the conduct of investigations into theft and conversion of stolen government property and violations of U.S. export control laws through training in seminars, classes, and daily work related to conducting these types of investigations. I have participated in numerous investigations, during the course of which I have interviewed suspects and witnesses, conducted physical surveillance, executed court-authorized search and arrest warrants, and used other investigative techniques to secure relevant information regarding various crimes. As a result of my training and experience, I am familiar with techniques and methods of operation used by individuals involved in criminal activity to conceal their activities from detection by law enforcement authorities.

2. I have personally participated in the investigation of the offenses discussed herein. I am familiar with the facts and circumstances of this investigation from my own personal participation in this investigation, my review of documents and physical evidence, and discussions I have had with other law enforcement personnel. Statements attributable to individuals herein are set forth in sum and substance and in part.

3. DCIS, in conjunction with the Department of Homeland Security, Homeland Security Investigations (“HSI”), is investigating the theft and sale without authorization of military equipment, including night vision, thermal, and laser aiming devices, radio communication equipment, and image intensifier assemblies (“IIA”).

4. Night vision and laser aiming devices acquired by the United States military, such as the stolen items described below, contain components that are made to military specifications and are required by the United States military to be rendered useless for their intended purpose prior to leaving government control. Accordingly, the United States military's policies prohibit the sale of fully-functional military-issued night vision and laser aiming equipment, on websites like eBay or otherwise, and any such sale would therefore be without government authority.

5. In or about October 2017, the DCIS and HSI identified eBay User ID "thermalsnthings" as a user who sold or offered to sell military equipment on eBay. In response to a subpoena, eBay produced certain records (the "EBAY RECORDS") associated with the eBay User ID "thermalsnthings" (the "USER ID"). The USER ID is registered to Kerry Hughley, of Mint Hill, North Carolina.

6. According to publicly available information and law enforcement databases, Kerry Hughley is thirty-nine years old and resides at 5600 Mint Forest Drive, Mint Hill, NC 28227 (hereafter "HUGHLEY").

7. According to the EBAY RECORDS, the individual operating the USER ID listed the "Shipping Address" as 5600 Mint Forest Drive, Mint Hill, NC 28227.

8. The registration information for the USER ID also includes an email address of "khughleysr@hotmail.com" (the "HOTMAIL ADDRESS") and phone number (704) 230-4480 (the "4480 NUMBER").

9. Pursuant to a search warrant, Microsoft, Inc. produced certain records (the "HOTMAIL RECORDS") associated with the HOTMAIL ADDRESS. According to

those records, the HOTMAIL ADDRESS is registered to a person identified as Kerry Hughley.

10. According to information from law enforcement databases and United States military records, HUGHLEY served in the United States Army and separated in 2004.

11. The EBAY RECORDS show that, between December 14, 2016 and February 8, 2018, the person operating the USER ID associated with HUGHLEY created postings for, and sold or attempted to sell approximately 267 items in 196 separate and unique eBay listings, and completed the sale of 150 items totaling \$178,975.20. These items included approximately sixteen (16) IIAs; seven (7) Thales SOCOM AN/PVS-7B night vision goggles; six (6) Crye Precision PEQ-15 Advanced Target Pointer Illuminator Aiming Lasers (ATPIAL); five (5) L-3 PAS23 Mini-Thermal Monoculars; four (4) BAE Clip-On Thermal Weapon Sights with PEQ-15 ATPIAL; three (3) Thales PVS-14 night vision monoculars; three (3) Aimpoint CompM4 Red Dot weapon sights; two (2) AN/PAS-13D thermal weapon scopes; three (3) PVS-7B Generation 3 night vision goggles; two (2) L-3 AN/PEQ-15 ATPIALS; one (1) L-3 Thermal Eye X200XP night vision thermal imaging camera monocular; one (1) Army/Navy PSQ-20B Enhanced Night Vision Goggle (“ENVG”); and various weapon parts, among other things.

12. On or about May 22, 2018, an HSI Undercover Agent (“UCA”) engaged in communications with the USER ID associated with HUGHLEY regarding the purchase of a PEQ-16C/LA-5C Mini Integrated Pointing Illumination Module (the “STOLEN MIPIM”) that was being sold by the USER ID on eBay. Although the UCA and the USERID initially communicated through eBay chat, the USER ID associated with HUGHLEY told the UCA to contact him by text using the 4480 NUMBER. HUGHLEY

stated, in sum and substance, that the “Peq16 is a prototype that was fielded” and he could “offer a 10% discount via PayPal invoice so it will be 3k flat instead of 3300.” During these communications with the 4480 NUMBER, the UCA was located in the Eastern District of New York and elsewhere.

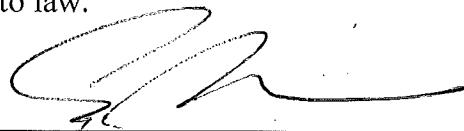
13. On or about July 3, 2018, HUGHLEY sent the UCA an invoice from PayPal account “Hugo Tech” regarding the purchase of the STOLEN MIPIM. In response to a subpoena, PayPal produced certain records (the “PAYPAL RECORDS”) associated with the PayPal account “Hugo Tech.” According to the PAYPAL RECORDS, the identified PayPal account provided an email address as the HOTMAIL ADDRESS, a phone number as the 4480 NUMBER, and a home or work address as 5600 Mint Forest Drive, Mint Hill, NC 28227.

14. On that same day, the UCA paid \$3,000 to the PayPal account for the STOLEN MIPIM. On or about July 11, 2018, the UCA received and seized the STOLEN MIPIM at a covert mailbox located in the Eastern District of New York. The STOLEN MIPIM was stamped with serial number 0015187 and National Stock Number 5855-01-550-2780. According to the manufacturer, the unit was one of 42, 000 MIPIMs sold to the United States Army and shipped to the United States Marine Corps. The STOLEN MIPIM was also assigned a demilitarization code of “D.” Based on my training and experience, I am aware that demilitarization codes are identifiers that specify how an item must be disposed of after it exceeds its Department of Defense lifecycle. A demilitarization code of “D” has a description of “USML Items – DEMIL required. Destroy item and components to prevent restoration or repair to a usable condition.”

15. Also according to the PAYPAL RECORDS, between December 14, 2016 and November 19, 2018, the Hugo Tech PayPal account reflected approximately \$533,294.94 in 284 separate incoming transactions that were identified as "completed" or "cleared." In addition to the completed \$3,000 sale of the STOLEN MIPIM, the PAYPAL RECORDS included approximately thirty-four (34) L-3 AN/PEQ-15 ATPIALs; thirty (30) AN/PVS-7D night vision goggles; twelve (12) IIAs; six (6) Crye Precision LA-5 MIPIMs; six (6) Crye Precision PEQ-15 ATPIALs; four (4) Thales SOCOM AN/PVS-7B night vision goggles; four (4) L-3 PAS23 Mini-Thermal Monoculars; three (3) L-3 AN/PVS-14 night vision monoculars; two (2) BAE Clip-On Thermal Weapon Sights; two (2) Thales PVS-14 night vision monoculars; three (3) PVS-7B night vision goggles; one (1) ANVIS-6 night vision goggles; one (1) L-3 AN/PEQ-16 C ATPIAL among other things.

16. As the evidence in the previous paragraphs indicate, (1) KERRY HUGHLEY sold, or attempted to sell, numerous night vision and laser aiming devices and other military-type equipment; (2) the STOLEN MIPIM is confirmed to be stolen government property; (3) HUGHLEY has a military background; (4) when asked, HUGHLEY provided false information to the UCA about the STOLEN MIPIM's origin; and (5) HUGHLEY sold the STOLEN MIPIM for \$3000 and shipped it to a covert mailbox in the Eastern District of New York. Accordingly, there is probable cause to believe that KERRY HUGHLEY knowingly and willfully sold or attempted to sell, without government authority, stolen night vision and laser aiming equipment belonging to the United States, sold that property for over \$1,000, and shipped at least one stolen item to the Eastern District of New York.

WHEREFORE, your deponent respectfully requests that the defendant KERRY HUGHLEY, be dealt with according to law.



ERIC MARYEA
Special Agent, Department of Defense, Defense
Criminal Investigative Service

Sworn to before me this
6th day of February, 2019

Robert Levy
THE HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
for the
Eastern District of New York

United States of America

V.

KERRY HUGHLEY

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Case No. 19-M-114

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) **KERRY HUGHLEY**

who is accused of an offense or violation based on the following document filed with the court:

- Indictment Superseding Indictment Information Superseding Information Complaint
 Probation Violation Petition Supervised Release Violation Petition Violation Notice Order of the Court

This offense is briefly described as follows:

Theft of government property in violation of Title 18, United States Code, Section 641.

Date: 02/06/2019

Robert Levy

Issuing officer's signature

City and state: Brooklyn, NY

Robert M. Levy, United States Magistrate Judge

Printed name and title

Return

This warrant was received on (date) _____, and the person was arrested on (date) _____
at (city and state) _____.

Date:

Arresting officer's signature

Printed name and title

This second page contains personal identifiers provided for law-enforcement use only and therefore should not be filed in court with the executed warrant unless under seal.

(Not for Public Disclosure)

Name of defendant/offender: _____

Known aliases: _____

Last known residence: _____

Prior addresses to which defendant/offender may still have ties: _____

Last known employment: _____

Last known telephone numbers: _____

Place of birth: _____

Date of birth: _____

Social Security number: _____

Height: _____ Weight: _____

Sex: _____ Race: _____

Hair: _____ Eyes: _____

Scars, tattoos, other distinguishing marks: _____

History of violence, weapons, drug use: _____

Known family, friends, and other associates (*name, relation, address, phone number*): _____

FBI number: _____

Complete description of auto: _____

Investigative agency and address: _____

Name and telephone numbers (office and cell) of pretrial services or probation officer (*if applicable*): _____

Date of last contact with pretrial services or probation officer (*if applicable*): _____